

STATE OF INDIANA
INDIANA UTILITY REGULATORY COMMISSION

PROPOSED RULEMAKING ON NET METERING, DRAFT 1

**COMMENTS OF THE
INDIANA MUNICIPAL ELECTRIC ASSOCIATION, INC.**

On June 16, 2003, the Indiana Utility Regulatory Commission Electricity Division Staff circulated Draft 1 of its Proposed Rules on Net Metering and solicited comments from certain interested parties. The Indiana Municipal Electric Association, Inc. (“IMEA”) appreciates the opportunity to comment on the Commission’s draft net metering rules. IMEA’s regular members include [65] Indiana cities and towns, each of which owns, operates, manages and controls plant and equipment used and useful in the distribution of electric utility service to the public. IMEA’s regular members that are subject to the Commission’s jurisdiction over their rates and charges for services, and on whose behalf these comments are submitted, include the cities and towns of: Anderson, Auburn, Bargersville, Columbia City, Covington, Crawfordsville, Edinburgh, Frankfort, Frankton, Garrett, Greenfield, Kingsford Heights, Knightstown, Lawrenceburg, Lebanon, Logansport, Mishawaka, Peru, Richmond, South Whitley, Straughn and Tipton. IMEA’s comments follow.

170 IAC X-1 Definitions. Subsection (c) contains a definition of the term “electric utility.” Under proposed draft 170 IAC X-2, the net metering rules are then made applicable to “electric utilities.” However, the definition of “electric utility” in subsection (c) differs from the definition of the term “utility” used in the Commission’s regulations establishing certain service standards for “electric utilities.” (i.e., 170 IAC 4-1-2 et seq.) Article 4 of the Commission’s regulations governing “electric utilities” was initially adopted in Cause No. 33629 in 1976 and

was readopted on July 11, 2001 in 24 IR 4233. Those regulations apply to “any electrical public utility subject to the jurisdiction of the commission pursuant to the provisions of the Public Service Commission Act [IC 8-1-2], the Rural Electric Membership Corporation Act [IC 8-1-13] or any other statute of the State of Indiana, which now or hereafter may be engaged in the production, sales or distribution of electric service and which comes under the jurisdiction of the commission.” 170 IAC 4-1-2.

There is seemingly no basis for having the proposed net metering rules apply to one set of electric utilities, while the Commission’s long-standing electric utility regulations apply to a different set of utilities. IMEA proposes that the applicability of the Commission’s net metering rules be consistent with the general regulations governing electric utilities. Attached hereto as Exhibit “A” is a copy of the proposed net metering rules reflecting changes to make 170 IAC X-2 “Applicability” cover the same electric utilities that are subject to 170 IAC 4-1 et seq.

170 IAC X-3 Exemption. The last phrase of Section 3 indicates that the Commission will have “final authority over the rates for purchase and sale of electric energy and capacity in transactions between net metering facilities and electric utilities.” This phrase appears to be inconsistent with the prior sentence exempting net metering facilities from regulation under IC 8-1-2, as well as Section 7. IMEA proposes that this sentence be clarified.

170IAC X-5 Interconnection. IMEA recommends that Subsection 5(b) be modified to require net metering facilities to conform to the applicable Institute of Electrical and Electronics Engineers Standard (i.e., IEEE Standard 929-2000).

Subsection 5(c) provides that certification by a licensed electrician shall constitute acceptable proof of qualified installation of the net metering facility. IMEA recommends that it

be made clear that this provision is not intended to, and does not, supersede any local codes or ordinances that may impose more stringent requirements.

Subsection 5(f) provides that system emergencies causing discontinuance of interconnection shall be subject to verification by the Commission, “at the Commission’s discretion.” It is unclear what the phrase “at the Commission’s discretion” means and it appears to be redundant. Therefore, IMEA proposes that this phrase be stricken. Exhibit “A” reflects IMEA’s proposed changes to Section 5.

170 IAC X-7 Billing. Subsection 7(a)(1) refers to an electric utility’s “administrative rules,” the meaning of which is unclear. The use of “terms and conditions of service” is more common.

Subsection 7(a)(2) provides that “[i]f the kWh generated by the eligible net metering customer and delivered to the [electric] utility exceeds the kWh supplied by the [electric] utility to the eligible net metering customer during the billing period, the eligible net metering customer shall be credited in the next billing cycle for the kWh difference.” Under this Subsection, an electric utility essentially would be purchasing power from the owner of a net metering facility. Some electric distribution utilities purchase power from another utility or provider under an “all requirements” contract. Such contracts specifically prohibit those utilities from purchasing power from any other entity. In addition to potentially causing contractual problems, this provision could potentially require electric utilities to purchase electricity that in some instances they would not need. This cost would be passed along to the electric utilities’ other ratepayers. Moreover, the billing systems of small electric utilities typically are not capable of “banking” credits from prior months. The cost to put in place software and computer systems necessary to “bank” credits from prior months could be excessive for smaller electric utilities. IMEA,

therefore, proposes striking this provision, or at a minimum, creating an exception for smaller electric utilities (e.g., those with fewer than X,000 customers).

170 IAC X-8 Liability and Indemnity. Subsection 8(a) requires a net metering customer to obtain insurance in an amount of at least \$100,000. This amount of insurance may be insufficient. IMEA would recommend that net metering customers obtain insurance in an amount of at least \$200,000. Net metering customers also should provide the electric utility with a certificate of insurance indicating that they have the requisite insurance coverage and naming the electric utility as an additional insured.

Subsection 8(b) requires electric utilities to indemnify and hold the owners of net metering facilities harmless from all liability for personal injury or property damage arising from the negligence of the owner in operating or maintaining the facility. The basis for this requirement is not explained and it could be harmful to electric utilities and their customers. If electric utilities are required to bear the cost of damages associated with a net metering facility operator's negligence, those costs ultimately will be passed on to ratepayers. Under the language in Subsection (b), an electric utility could be held liable for damage resulting from an outage caused by a net metering facility and might have no recourse against the owner of the facility. IMEA's recommendation regarding indemnification is depicted on Exhibit "A." However, another option for the Commission may be to not include an indemnification provision at all. This is the approach Virginia took in its net metering rules. (See, 20 VAC 5-315).

Indiana Net Metering Proposed Rule Draft 1

June 13, 2003

Rule X. Net Metering

170 IAC X-1 Definitions

Sec. 1. (a) As used in this rule, "commission" means the Indiana utility regulatory commission.

(b) As used in this rule, "customer" means any person, firm, corporation, municipality or other government agency which has agreed, orally or otherwise, to pay for electric service received from a public or municipally owned utility.

(c) As used in this rule, "eligible net metering customer" means a customer that owns and operates a solar, wind, or hydro electrical generating facility that:

- (1) has a nameplate capacity less than or equal to 10 kilowatts (kW);
- (2) is located on the eligible net metering customer's premises; and
- (3) is used primarily to offset all or part of the eligible net metering customer's own electricity requirements.

(d) As used in this rule, "interconnection" or "interconnected" means the physical, parallel connection of a net metering facility with a distribution facility of an electric utility.

(e) As used in this rule, "name plate capacity," means the full-load continuous rating of a generator under specified conditions as designated by the manufacturer.

(f) As used in this rule, "net metering," means measurement of the difference between the electricity that is supplied by the electric utility to an eligible net metering customer and the electricity that is supplied back to the utility by an eligible net metering customer.

(g) As used in this rule "net metering facility" means an arrangement of equipment for the production of electricity from the movement of water or wind, or by photoelectric transformation, which is owned and operated by an eligible net metering customer.

(h) As used in this rule, "parallel" means the designed operation of the net metering facility, interconnection equipment, and electric utility's system where the instantaneous flow of electrical energy may automatically occur in either direction across the interconnection point between the net metering facility and the electrical utility's distribution system.

(i) As used in this rule, "system emergency" means a condition on a utility's system reasonably likely to result in any of the following:

- (1) A significant disruption of service to a customer;
- (2) A substantial deviation from a normal service standard; or
- (3) An endangerment to life or property.

Deleted: (c) As used in this rule, "electric utility" means a public utility or municipally owned utility that owns, operates, or manages an electric plant.

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170 IAC X-2 Applicability

Sec. 2. These rules shall apply to any electrical public utility, subject to the jurisdiction of the commission, which may now or hereafter be engaged in the production, transmission, sale or distribution of electric service (herein called "electric utility," or "utility" or "utilities") and all net metering facilities as defined in 170 IAC X-1 that are interconnected with utilities.

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170 IAC X-3 Exemption

Sec. 3. Net metering facilities shall be exempt from revenue requirement and associated regulation under IC 8-1-2 as administered by the commission, but the commission shall be final authority over rates for purchase and sale of electric energy and capacity in transactions between net metering facilities and electric utilities.

170 IAC X-4 Availability

Sec 4. (a) An electric utility shall offer net metering to, at minimum, residential customers and elementary, middle, and high schools that install a net metering facility. The utility may limit the aggregate amount of net metering facility nameplate capacity under the net metering tariff to 0.1% of the most recent summer peak load of the utility.

170 IAC X-5 Interconnection

Sec 5. (a) A net metering standard interconnection agreement between the electric utility and the eligible net metering customer must be executed before the net metering facility may be interconnected with the electric utility's system.

(b) The net metering facility shall conform to the requirements of IEEE Standard 929-2000 and have Underwriters Laboratories certification that it has satisfied the testing requirements of UL 1741 dated May 7, 1999.

(c) The eligible net metering customer shall provide the electric utility proof of qualified installation of the net metering facility. Certification by a licensed electrician shall constitute acceptable proof. This subsection, however, is not intended to supersede local codes or ordinances, which may impose separate requirements.

(d) An electric utility shall not require an eligible net metering customer, whose net metering facility meets the standards of this subsection, to do any of the following:

- (1) Install additional controls; or
- (2) Perform or pay for additional tests.

(e) The eligible net metering customer shall install, operate, and maintain the net metering facility in accordance with manufacturer's suggested practices for safe, efficient, and reliable operation in parallel to the electric utility's system.

(f) The electric utility may isolate any net metering facility at its own discretion if the electric utility believes continued interconnection with the net metering facility creates or contributes to a system emergency. System emergencies causing discontinuance of interconnection shall be subject to verification by the commission.

170 IAC X-6 Metering

Sec 6. (a) One of the following metering options, if not already present, shall be installed on the eligible net metering customer's premises by the utility to properly record the net kilowatt hours of a net metering facility:

- (1) One main watt-hour meter capable of measuring net kilowatt hours (kWh), or
- (2) One main watt-hour meter measuring kWh to the eligible net metering customer, and a second watt-hour meter measuring kilowatt hours (kWh) to the electric utility. The reading of the second meter will be subtracted from the reading of the main meter to obtain net kilowatt hours (kWh) for billing.

(b) An electric utility shall not charge the eligible net metering customer any costs or fees for:

- (1) Additional metering for single-phase configurations installed at the request of the utility;
- (2) Eligible net metering customer's request to participate in net metering program; or
- (3) Initial net metering facility inspection.

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170 IAC X-7 Billing

Sec 7. (a) An electric utility shall determine an eligible net metering customer's monthly bill as follows:

(1) Bill charges, credits, rates and adjustments shall be in accordance with the utility's tariff and terms and conditions of service that would apply if the eligible net metering customer did not participate in net metering.

(2) The utility shall measure the difference between the amount of electricity delivered by the utility to the eligible net metering customer and the amount of electricity generated by the eligible net metering customer and delivered to the utility during the billing period, in accordance with normal metering practices. If the kilowatt hours (kWh) delivered by the utility to the eligible net metering customer exceeds the kilowatt hours (kWh) delivered by the eligible net metering customer to the utility during the billing period, the eligible net metering customer shall be billed for the kilowatt hours (kWh) difference at the rate applicable to the eligible net metering customer if it was not an eligible net metering customer.

(3) When the eligible net metering customer elects to no longer participate in the net metering tariff, any unused credit shall revert to the utility.

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170 IAC X-8 Liability and Indemnity

Sec 8. (a) Liability insurance: An eligible net metering customer operating a net metering facility shall maintain homeowners, commercial, or other insurance providing coverage in the amount of at least \$200,000 for the liability of the insured against loss arising out of the use of a net metering facility. Eligible net metering customers shall not be required to obtain liability insurance with limits higher than that which is stated in this section; nor shall such eligible net metering customers be required to purchase additional liability insurance where the eligible net metering customer's existing insurance policy provides coverage against loss arising out of the use of a net metering facility by virtue of not explicitly excluding coverage for such loss. The eligible net metering customer shall submit a certificate of insurance to the electric utility naming the utility as an additional insured.

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(b) Indemnity: The eligible net metering customer shall indemnify and hold the utility harmless from and against all claims, liability, damages, and expenses, including attorney's fees, based on any injury to any person, including loss of life, or damage to any property, including loss of use thereof, arising out of, resulting from, or connected with, or that may be alleged to have arisen out of, resulted from, or connected with an act or omission by the eligible net metering customer, its employees, agents, representatives, successors, or assigns in the construction, ownership, operation, or maintenance of such party's facilities used in net metering.

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170 IAC X-9 Standard Offer and Reporting Requirements

Sec 9. (a) Within 60 days of the effective date of this rule, all electric utilities shall submit for approval under the commission's thirty (30) day filing process a standard net metering tariff. The standard net metering tariff shall comply with the requirements of this section.

(b) Within 60 days of the effective date of this rule, all electric utilities shall submit for approval via the commission's thirty (30) day filing process a standard interconnection agreement for net metering facilities. The standard interconnection agreement shall include:

- (1) Name of eligible net metering customer;
- (2) Location of proposed net metering facility;
- (3) Type of proposed net metering facility;
- (4) Size and/or inverter power rating of proposed net metering facility;
- (5) Inverter manufacturer and model number; and

(6) A description of the electrical installation of the inverter and associated electrical equipment.

(c) Within sixty (60) days of the effective date of this rule, and on or before March 1st of each subsequent year, each electric utility shall file with the commission a Net Metering Report. The Net Metering Report shall contain the following items:

- (1) The total number of eligible net metering customers and facilities;
- (2) The number, size and type (solar, wind, hydro) of net metering facilities;
- (3) The number of new eligible net metering customers interconnected during the previous calendar year;
- (4) The number of existing eligible net metering customers that ceased participation in the net metering tariff during the previous calendar year; and
- (5) If available, data on the amount of electricity generated by net metering facilities

170 IAC X-10 Customer complaints

Sec. 10. In the event an electric utility and an eligible net metering customer are unable to agree on matters relating to net metering, either party may raise a customer complaint to the commission in accordance with 170 IAC 4-1-17.